This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`

3 2044 102 834 512

LODGE

Treaty of Peace With Spa

77
221.5

HARVARD
LAW
LIBRARY

ith Spain

77
221.5

TREATY OF PEACE WITH SPAIN.

SPEECH

OF

HON. HENRY CABOT LODGE,

OF MASSACHUSETTS,

IN THE

SENATE OF THE UNITED STATES,

JANUARY 24, 1899.

Qui transtulit sustinet.

WASHINGTON.
1899.

OCT 8 1940

SPEECH

OF

HON. HENRY CABOT LODGE.

The Senate having under consideration the joint resolution (S. R. 191) declaring that under the Constitution of the United States no power is given to the Federal Government to acquire territory to be held and governed permanently as colonies—

Mr. LODGE said:

Mr. PRESIDENT: I shall detain the Senate but a very short time. I do not know that it is necessary to apologize for brevity in a speech, but possibly a single word of explanation may not be out of place.

I could undoubtedly occupy much time, and fill many pages in the CONGRESSIONAL RECORD by marshaling decisions and reviewing historical precedents. But that has been done by others, Mr. President, on both sides of the question, much better and more thoroughly than I could hope to do it. I might also review colonial systems from the days of Greece and Rome down to the last punitive expedition against Benin, and with only such limitations as my imagination would set I might discuss all the possibilities of the future in connection with the results which have come to this country from the war.

But that does not seem to me necessary. The question now before the American people, like many other great questions, has one very simple and practical side, and it is to that alone that I intend to address myself. I shall simply restate in more formal manner what I have already said in several public speeches in my own State.

Mr. President, in connection with these resolutions, and others which have been introduced, two questions have been raised, one of constitutional law and one of public policy. It is not my purpose to enter at any length into the former discussion. The constitutional questions are many, and the hypothetical situations which have been imagined with much ingenuity as tests of the

Constitution are almost countless. It is an inviting field, rich in casuistry and subtle distinctions, but I do not think that I could add much to the sum of human information or misinformation by attempting its elaborate cultivation.

My own views as to our constitutional rights and powers are simple and well defined, and have not been formed without some study, both of our Constitution and our history. I shall content myself with stating them. I believe that the United States has the undoubted power, which it has frequently exercised, to acquire territory and to hold and govern it. I am ready to admit if necessary that action in these directions must be taken for constitutional purposes, but the constitutionality of the purposes, when Congress is about to exercise these or any other powers, must be determined by Congress itself through its majority. I believe that the power of the United States in any territory or possession outside the limits of the States themselves is absolute, with the single exception of the limitation placed upon such outside possessions by the thirteenth amendment.

Such, at all events, has been the policy of the United States and its course of action in practice. After the cession of Louisiana, for example, Congress placed in the hands of the President absolute authority, as absolute as that enjoyed by the King of Spain or the First Consul of France, over that territory and its inhabitants. He was to appoint not only their executive but their legislative officers, and he was given unrestricted control of all these people recently ceded to the United States. If the Constitution had extended *proprio vigore* to Louisiana this would have been impossible, and this authority was conferred by a Congress controlled by strict constructionists of the Jeffersonian school. In 1821 again it was proposed in Congress to insert in the act establishing a temporary government for Florida an amendment prescribing that—

> Nothing should be done in the Floridas incompatible with the Constitution and laws of the United States.

The amendment was voted down, and the bill passed giving absolute authority to the President, an authority exercised in despotic fashion by Andrew Jackson in command of the Army. In our Territorial bills, and in that for the organization of Hawaii, now pending, provision is made for extending the Constitution to

the territory in question. Without a legislative act the Constitution does not extend to the Territories or other possessions of the United States outside the limits of the States themselves.

I will not enter into any discussion of the Dred Scott decision, which has been so admirably dealt with by the Senator from Ohio. I was brought up to believe that no greater injury was ever attempted against the Supreme Court than when, for political reasons, that decision was forced upon it. I was also brought up to believe that the famous *obiter dictum* of Chief Justice Taney was as bad in law as it was wrong in politics and inhuman in doctrine. I am not very old, but that is a belief which I am too old to unlearn now. I am content to stand on the broad proposition laid down by Webster in debate in 1849, that the Territories are not part of the United States, but belong to the United States, as England's colonies belong to England. It does not alarm me to hold this doctrine of constitutional law merely because it can be easily pointed out that the supreme power which Congress may exercise over territory within its jurisdiction, but not within the limits of the United States, is capable of abuse.

Constitutions do not make people; people make constitutions. Our Constitution is great and admirable, because the men who made it were so and the people who ratified it and have lived under it were and are brave, intelligent, and lovers of liberty. There is a higher sanction and a surer protection to life and liberty, to the right of free speech and trial by jury, to justice and humanity, in the traditions, the beliefs, the habits of mind, and the character of the American people than any which can be afforded by any constitution, no matter how wisely drawn. If the American people were disposed to tyranny, injustice, and oppression, a constitution would offer but a temporary barrier to their ambitions, and the reverence for the Constitution and for law and justice grows out of the fact that the American people believe in freedom and humanity, in equal justice to all men, and in equal rights before the law, and while they so believe the great doctrines of the Declaration of Independence and of the Constitution will never be in peril.

Holding these views as to our constitutional powers, the great question now before the American people resolves itself, in my

mind, to one of policy purely. There is only one question demanding actual and immediate decision now before Congress and the people, and that is whether the treaty with Spain shall be ratified or not. The discussion of the treaty is being conducted, and to my mind properly conducted, behind closed doors, for there is much that must be said affecting other nations and other people which could not with propriety be said in public; but the treaty itself has been made public, and the debate upon these resolutions, taking a wide range, has covered, so far as could be fittingly done in open session, the broad question of policy involved in the ratification of the treaty.

I desire merely to state very briefly what, as I understand it, that question is. I have heard no opposition expressed to any part of the treaty except such portion of it as relates to the Philippines, and that, therefore, is the sole point upon which I desire to touch. In our war with Spain we conquered the Philippines, or, to put it more exactly, we destroyed the power of Spain in those islands and took possession of their capital. The treaty cedes the Philippines to us. It is wisely and skillfully drawn. It commits us to no policy, to no course of action whatever in regard to the Philippines. When that treaty is ratified, we have full power and are absolutely free to do with those islands as we please; and the opposition to its ratification may be summed up in a single sentence, that the American people and the American Congress are not to be trusted with that power and with that freedom of action in regard to the inhabitants of those distant islands. Every one of the resolutions thus far offered on this subject is an expression of distrust in the character, ability, honesty, and wisdom of the American people and an attempt to make us promise to be good and wise and honest in the future and in our dealings with other people. It is a well-meant effort to make us give bonds to fate by means of a Congressional resolution.

We must either ratify the treaty or reject it, for I can not suppose that anyone would seriously advance the proposition that we should amend the treaty in such a way as to make pledges to Spain, and to Spain alone, and give bonds to Spain, and to Spain alone, for our good conduct in a matter which will be wholly our own to decide. Let us look, then, at the two alternatives. Sup-

pose we ratify the treaty. The islands pass from the possession of Spain into our possession without committing us to any policy. I believe we can be trusted as a people to deal honestly and justly with the islands and their inhabitants thus given to our care. What our precise policy shall be I do not know, because I for one am not sufficiently informed as to the conditions there to be able to say what it will be best to do, nor, I may add, do I think anyone is. But I believe that we shall have the wisdom not to attempt to incorporate those islands with our body politic, or make their inhabitants part of our citizenship, or set their labor alongside of ours and within our tariff to compete in any industry with American workmen. I believe that we shall have the courage not to depart from those islands fearfully, timidly, and unworthily and leave them to anarchy among themselves, to the brief and bloody domination of some self-constituted dictator, and to the quick conquest of other powers, who will have no such hesitation as we should feel in crushing them into subjection by harsh and repressive methods. It is for us to decide the destiny of the Philippines, not for Europe, and we can do it alone and without assistance. I believe that we shall have the wisdom, the self-restraint, and the ability to restore peace and order in those islands and give to their people an opportunity for self-government and for freedom under the protecting shield of the United States until the time shall come when they are able to stand alone, if such a thing be possible, and if they do not themselves desire to remain under our protection. This is a great, a difficult, and a noble task. I believe that American civilization is entirely capable of fulfilling it, and I should not have that profound faith which I now cherish in American civilization and American manhood if I did not think so.

During the campaign of last autumn I said in many speeches to the people of my State that I could never assent to hand those islands back to Spain; that I wanted no subject races and no vassal states; but that we had by the fortunes of war assumed a great responsibility in the Philippines; that we ought to meet it, and that we ought to give to those people an opportunity for freedom, for peace, and for self-government; that we ought to protect them from the rapacity of other nations and seek to uplift those whom we had freed. From those views I have never swerved, and I belived then, as I believe now, that they met with

the approbation of an overwhelming majority of the people of Massachusetts. I believe those results can be and will be obtained. I can not forecast the future as so many others have been able to do. I can but proceed step by step, and the only step I can see now to take is to ratify the treaty, for in that way alone can we take the islands from Spain and give ourselves opportunity to deal with them and bring peace and freedom to their inhabitants. In such mighty questions as those I think nothing is so vicious as to be in a hurry and to attempt to discount the unknown future. Let us determine the question that lies nearest our hand and then turn to the next.

Take now the other alternative. Suppose we reject the treaty or strike out the clause relating to the Philippines. That will hand the islands back to Spain; and I can not conceive that any American should be willing to do that. Suppose we reject the treaty; what follows? Let us look at it practically. We continue the state of war, and every sensible man in the country, every business interest, desires the reestablishment of peace in law as well as in fact. At the same time we repudiate the President and his action before the whole world, and the repudiation of the President in such a matter as this is, to my mind, the humiliation of the United States in the eyes of civilized mankind and brands us as a people incapable of great affairs or of taking rank where we belong, as one of the greatest of the great world powers.

The President can not be sent back across the Atlantic in the person of his commissioners, hat in hand, to say to Spain with bated breath, "I am here in obedience to the mandate of a minority of one-third of the Senate to tell you that we have been too victorious, and that you have yielded us too much, and that I am very sorry that I took the Philippines from you." I do not think that any American President would do that, or that any American would wish him to. Still less do I think that any American would withdraw General Otis and his soldiers and recall Admiral Dewey from the scene of his great victory, leaving it to be said of us that we had deserted our post without an effort to repair the ruin we had made or to save the people we had freed with—

> One task more declined, one more footpath untrod,
> One more devil's triumph and sorrow for angels,
> One wrong more to man, one more insult to God.

Therefore, Mr. President, by rejecting the treaty we renew the state of war. The protocol is but the agreement of the Commander in Chief. When the treaty fails, it could be torn in pieces; but whether it is thrown aside or not, still we are in a state of war, and the subjects of Spain, among whom are numbered today the Filipinos, would be the public enemies of the United States by all the laws of nations. There, then, would be the President, with the country at war with Spain, armed with the war power, which he can use unchecked as the Commander in Chief of the Army and Navy. The treaty commits the disposition of the Philippine Islands to Congress and to the ways and practices of peace. Its rejection leaves them in the sole power of the President, subject to the usages and practices of war alone.

There has been a great deal said, Mr. President, about the Declaration of Independence and its principles, and about conscience and morality. I am sure, Mr. President, that there is no Senator upon this floor, no matter what his views on this question may be, who would not cut off his hand sooner than be false to the principles of the Declaration of Independence and to the great traditions and ideals of American history; but I do not believe, Mr. President, that devotion to the Declaration of Independence is confined to the minority in this Chamber any more than I believe that they have a monopoly of conscience or of morals. There is no magic in the word "minority." A minority is not necessarily wiser and better than the rest of mankind because it is a minority, any more than a majority is so by mere virtue of its name. I believe in the rule of the majority, because I believe that in the long run the majority is far more likely to be right than the minority, and I have no faith in Matthew Arnold's self-complacent doctrine of "the remnant." Great policies and great questions must be decided by higher standards and on grounds more relative than this. I have given a large part of my life to the study of the time when this country freed itself from England, and when this Government was established, and of the men who did the great work. No one has a greater reverence for those men and their deeds than I. Nobody loves better than I the ideals set forth in the Declaration of Independence; but my ideals do not stop there. Nor do they stop even with that greater period when the life of the nation was at stake.

I have ideals and beliefs which pertain to the living present, and a faith in the future of my country. I believe in the American people as they are to-day, and in the civilization they have created. I believe not merely in what they have done but in what they are yet to do.

To the American people and their Government I am ready to intrust my life, my liberty, my honor; and what is far dearer to me than anything personal to myself, the lives and the liberty of my children and my children's children. If I am ready thus to trust my children to the Government which the American people create and sustain, am I to shrink from intrusting to that same people the fate and fortune of the inhabitants of the Philippine Islands? I have beheld with amazement the specters of wrongdoing which have been conjured up here and charged as possible to the American people. I have been astonished to hear outside this Chamber men who for three years watched unmoved the torture of Cuba, pleading with fervid eloquence for the Filipinos, just rescued by us from Spain, against the possible cruelty which Americans might inflict upon them. Denunciations which might have been suitable to Weyler have been applied to imaginary deeds of cruelty to be performed at some future time, date not specified, by a humane and able American President and by American soldiers and sailors who have within six months shown themselves in the heat of battle as merciful and tender as they were brave and daring. Mr. President, all this is so inconceivable to me that I can not comprehend it. I can look at this question in only one way. A great responsibility has come to us. If we are unfit for it and unequal to it, then we should shirk it and fly from it. But I believe that we are both fit and capable, and that therefore we should meet it and take it up.

There is much else involved here, vast commercial and trade interests, which I believe we have a right to guard and a duty to foster. But the opponents of the treaty have placed their opposision on such high and altruistic grounds that I have preferred to meet them there, and not to discuss the enormous material benefits to our trade, our industries, and our labor dependent upon a right settlement of this question, both directly and indirectly. For this reason I have not touched upon the commercial advantages to the

country involved in the question of these islands, or the far greater question of the markets of China, of which we must have our share for the benefit of our workingmen. I have confined myself solely to the question which has been brought to the front here, and to the proposition that we could not be trusted to deal honestly with those islands of the East, for that is what the argument of the opposition, stripped of rhetoric and ornament, amounts to.

I want to get this country out of war and back to peace. I want to take the disposition and control of the Philippines out of the hands of the war power and place them where they belong, in the hands of the Congress and of the President. I want to enter upon a policy which shall enable us to give peace and self-government to the natives of those islands. The rejection of the treaty makes all these things impossible, and the delay in its ratification retards and endangers them. If I did not have faith in the American people and their Government, I would do my best to prevent the ratification of the treaty, and I can see no other ground of opposition. But as I have a profound faith in both, I want to take those islands from Spain in the only way in which it can be done, by the ratification of the treaty, and then leave it to the President—wise, humane, patriotic—to the American Congress, and to the American people, who have never failed in any great duty or feared to face any great responsibility, to deal with them in that spirit of justice, humanity, and liberty which has made us all that we are to day or can ever hope to be.

3651

O